

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DIANE OWENS,

Plaintiff,

v.

Case No. 06-11682

DETROIT MEDICAL CENTER
and HARPER HOSPITAL

HONORABLE AVERN COHN

Defendants.

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ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION

I. Introduction

This is an employment discrimination case. Plaintiff Diane Owens, proceeding pro se, was an employee of defendant Harper Hospital. She claimed that she was wrongfully discharged after she filed a complaint with the Equal Employment Opportunity Commission (EEOC) and was discriminated against her on the basis of her race (African-American).

Defendants filed a motion to dismiss on the grounds that the complaint is untimely. The Court agreed, noting that plaintiff received her right to sue letter in 2002 and did not file her complaint until 2006, well beyond the 90 day requirement. See Memorandum and Order Granting Defendants' Motion to Dismiss and Dismissing Case, filed June 12, 2006.

Before the Court is plaintiff's motion for reconsideration. For the reasons that

follow, the motion is DENIED.

II. Legal Standard

E.D. Mich LR 7.1(g) governs motions for reconsideration, providing in relevant part:

Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by implication. The movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case.

III. Application

Plaintiff says that she filed a complaint within 90 days of receiving her right to sue letter. Attached to her motion are papers indicating that she filed a pro se complaint in this district against Detroit Medical Center on May 28, 2002. The Court was not aware of plaintiff's prior complaint until she filed the instant motion. The case was assigned to another judge in this district. See Owens v. Detroit Medical Center, 02-72150. According to the docket sheet, the case was dismissed in April of 2003 for failure to prosecute.¹ Almost two years later, in May of 2005, plaintiff filed a motion to reopen the case, which was denied. Plaintiff took an appeal, which was dismissed in November 2005 for failure to file a timely notice of appeal.

Although plaintiff's complaint filed in 2002 may have been within 90 days of receiving her right to sue letter, that does not change the fact that her present complaint, filed in 2006, was not timely. Moreover, her 2002 case has long been

¹Plaintiff apparently failed to respond to an order to show cause as to why the case should not be dismissed for lack of prosecution which was entered eleven months after the complaint was filed.

closed. Plaintiff cannot cure her failure to proceed in her 2002 case by filing a new complaint in 2006. Accordingly, there is no ground for reconsideration.

SO ORDERED.

Dated: June 26, 2006

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, June 26, 2006, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager
(313) 234-5160